

**Senate Study Bill 3180 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON SENG)

**A BILL FOR**

1 An Act relating to the disposal of companion animal remains,  
2 including by providing for the licensure of persons owning  
3 or operating companion animal cemeteries and crematoriums,  
4 establishing standards and fees, making an appropriation,  
5 and providing criminal penalties.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. LEGISLATIVE FINDINGS.

2 1. The general assembly finds that the relationships that  
3 humans develop with other members of the animal kingdom that  
4 are taken into homes and maintained as companions are unique  
5 and special. These relationships can enrich lives and increase  
6 happiness. Even after the death of a companion animal, human  
7 attachment to the memory of the companion animal often remains  
8 very strong and many people feel the need to memorialize the  
9 love felt for the animal by burying the companion animal in  
10 a companion animal cemetery. Companion animal cemeteries  
11 and their owners and operators have a special responsibility  
12 to customers who have entrusted pet remains to them. These  
13 companion animal cemeteries have a duty to act in an ethical  
14 and lawful manner to prevent grieving companion animal  
15 owners from experiencing further emotional pain or financial  
16 manipulation. Perpetrations of fraud against grieving  
17 companion animal owners are unconscionable.

18 2. The general assembly further finds that the people  
19 of this state have a vital interest in the establishment,  
20 maintenance, and preservation of companion animal cemeteries  
21 and companion animal crematoriums and the proper operation  
22 of the businesses and individuals that own and manage the  
23 businesses. This chapter is determined to be an exercise of  
24 the police powers of this state to protect the well-being of  
25 citizens of this state, to promote the public welfare, to  
26 promote the health of the public, and to prevent companion  
27 animal cemeteries and companion animal crematoriums from  
28 falling into disrepair and dilapidation and becoming a burden  
29 upon the community.

30 Sec. 2. Section 167.1, Code 2014, is amended to read as  
31 follows:

32 **167.1 Scope.**

33 This chapter shall not apply to licensed slaughterhouses, or  
34 to the disposal, by ~~licensed~~ the following:

35 1. Licensed slaughterhouses, of the bodies of animals, or

1 any part thereof, slaughtered for human food.

2 2. The disposal of the remains of companion animals pursuant  
3 to chapter 523J.

4 Sec. 3. Section 455B.304, Code 2014, is amended by adding  
5 the following new subsection:

6 NEW SUBSECTION. 20. The commission shall adopt rules for  
7 the disposal of companion animals buried pursuant to chapter  
8 523J in consultation with the commissioner of insurance.

9 Sec. 4. NEW SECTION. **523J.1 Definitions.**

10 As used in this chapter, unless the context requires  
11 otherwise:

12 1. "*Commissioner*" means the commissioner of insurance or the  
13 commissioner's designee.

14 2. "*Companion animal*" means any domestic animal that has  
15 been adapted or tamed to live under the immediate and permanent  
16 care of humans, including but not limited to dogs, cats,  
17 horses, rodents, fish, birds, snakes, turtles, lizards, frogs,  
18 and rabbits.

19 3. a. "*Companion animal cemetery*" means any land, place,  
20 structure, facility, or building provided by any person for a  
21 fee, whether or not for profit, to veterinarians or members  
22 of the general public for use, or reservation for use, for  
23 the permanent interment or inurnment above or below ground of  
24 companion animal remains.

25 b. "*Companion animal cemetery*" does not include any of the  
26 following:

27 (1) Rendering plants regulated pursuant to chapter 189A.

28 (2) A landfill or other disposal facility at which solid  
29 waste, or its residue after treatment, is intentionally placed  
30 and at which solid waste is required to remain indefinitely,  
31 pursuant to chapter 455B.

32 4. "*Companion animal cemetery operation and maintenance*"  
33 means all costs incurred to operate and maintain a companion  
34 animal cemetery, including salaries and bonuses for employees,  
35 officers, and directors, but shall not include any fines or

1 penalties imposed on the companion animal cemetery or its  
2 employees, officers, or directors by the commissioner or other  
3 agency or court.

4 5. *a. "Companion animal crematorium"* means any land, place,  
5 structure, facility, or building provided by any person for a  
6 fee, whether or not for profit, to veterinarians or members  
7 of the general public for the cremation of companion animals.  
8 However, a companion animal crematorium shall not provide for  
9 permanent interment or inurnment of companion animal remains.

10 *b. "Companion animal crematorium"* does not include a  
11 facility designed for resource recovery or infectious medical  
12 waste incinerators, both as regulated by chapter 455B.

13 6. *a. "Companion animal owner"* means the person who is  
14 listed as the owner of the companion animal in veterinary  
15 records or companion animal cemetery or crematorium records or  
16 the person's agent or employee.

17 *b.* If a companion animal owner is a minor, a parent or legal  
18 guardian of the minor or the parent's or legal guardian's agent  
19 or employee shall be deemed the companion animal owner for  
20 the purposes of the companion animal disposal disclosure form  
21 required in section 523J.15.

22 7. *"Entombment"* means the placement of a companion animal  
23 in a grave or tomb.

24 8. *"Individual burial"* means any of the following:

25 *a.* The interment of a single companion animal's remains in  
26 a separate grave.

27 *b.* The interment of more than one companion animal in a  
28 grave with the written consent of the companion animal owner.

29 9. *"Individual cremation"* means the cremation of a single  
30 companion animal's remains in a separate receptacle that allows  
31 the companion animal's cremains to remain separate from the  
32 cremains of other companion animals.

33 10. *"Inurnment"* means the placement of companion animal  
34 cremains in a grave, urn, or tomb.

35 11. *"Licensee"* means a person licensed to engage in the

1 business of operating a companion animal cemetery or companion  
2 animal crematorium under this chapter.

3 12. *"License fee and renewal fee"* means the fees required to  
4 accompany an application for issuance of any license, including  
5 any temporary, apprentice, or renewal license, pursuant to this  
6 chapter.

7 13. *"Mass burial"* means the interment of companion animal  
8 remains communally in a grave containing more than one  
9 companion animal.

10 14. *"Mass cremation"* means the cremation of companion  
11 animals communally in a receptacle containing more than one  
12 companion animal.

13 15. *"Veterinarian"* means a person licensed to practice the  
14 profession of veterinary medicine pursuant to chapter 169.

15 Sec. 5. NEW SECTION. 523J.2 License required.

16 On and after December 1, 2014, a person shall not engage for  
17 a fee in the business of operating a companion animal cemetery  
18 or companion animal crematorium or represent the person as  
19 being able to do so unless the person is licensed pursuant  
20 to this chapter. A person licensed in accordance with this  
21 chapter may employ individuals to assist in the operation of a  
22 companion animal cemetery or companion animal crematorium.

23 Sec. 6. NEW SECTION. 523J.3 Authority to adopt rules —  
24 powers.

25 In addition to specific authority granted elsewhere in  
26 this chapter, the commissioner shall adopt administrative  
27 rules pursuant to chapter 17A as necessary to administer this  
28 chapter, and issue orders as necessary to administer this  
29 chapter. The rules shall include but are not limited to doing  
30 all of the following:

31 1. Appointing an adequate number of assistants, inspectors,  
32 and other employees as may be necessary to administer this  
33 chapter, to prescribe duties, and to fix compensation.

34 2. Establishing the form and content of applications  
35 for licenses, the procedure for the application process, the

1 standards for licensure, and the disciplinary process and  
2 penalties for violations of the standards of licensure.

3 3. Investigating applicants and determining their  
4 eligibility for licenses under this chapter.

5 4. Keeping records of all licenses issued, suspended, or  
6 revoked.

7 5. Providing standards and an enforcement process for  
8 operation of a facility for companion animal disposal for a  
9 fee, whether by earth burial, entombment, inurnment, cremation,  
10 or otherwise, the form and content of companion animal disposal  
11 disclosure forms, and registration of disposals by companion  
12 animal cemeteries or companion animal crematoriums.

13 6. Entering the office, grounds, and buildings of any  
14 companion animal cemetery or companion animal crematorium  
15 periodically or upon receiving a complaint to determine  
16 compliance with this chapter. Local boards of health shall  
17 cooperate, upon the request of the commissioner, by conducting  
18 the periodic inspections as well as inspections pursuant to  
19 complaints to facilitate the enforcement of this chapter,  
20 and the commissioner may delegate authority to a local board  
21 to enforce rules and sanctions adopted and imposed by the  
22 commissioner. A local board of health shall be compensated for  
23 services under this provision at a rate established by rule.  
24 The costs of periodic inspections shall not be charged to a  
25 licensee. However, the costs of investigations of complaints  
26 may be charged to a licensee.

27 7. Conduct a financial audit of all business records,  
28 trust fund records, and companion animal disposal disclosure  
29 forms for any companion animal cemetery or companion animal  
30 crematorium.

31 8. Issue a subpoena for persons or records deemed  
32 appropriate to an investigation or any other action taken  
33 pursuant to this chapter.

34 9. Providing procedures to regulate, for the protection of  
35 consumers, the operation of companion animal cemeteries and

1 companion animal crematoriums whose licenses to operate are  
2 suspended, revoked, or not renewed.

3 10. Providing standards for the burial or cremation of  
4 companion animals in cooperation with the department of natural  
5 resources.

6 Sec. 7. NEW SECTION. 523J.4 License — application.

7 1. A person may make application to the commissioner to  
8 obtain a license to engage in the business of operating a  
9 companion animal cemetery or companion animal crematorium under  
10 this chapter. The application form shall be provided by the  
11 commissioner and shall, at a minimum, require the signature of  
12 the applicant and that the applicant shall provide all of the  
13 following information:

14 a. The name and address of the applicant as follows:

15 (1) If an individual, the name under which the business is  
16 to be conducted.

17 (2) If a partnership, the name and business address of each  
18 partner, and the name under which business is to be conducted.

19 (3) If a corporation, the name of the corporation and  
20 the name and business address of each shareholder of the  
21 corporation holding more than ten percent of the total shares.

22 b. The complete address or addresses where the business is  
23 to be conducted.

24 c. A summary of all relevant experience of all persons  
25 listed in paragraph "a", in the operation of a cemetery,  
26 companion animal cemetery, crematorium, companion animal  
27 crematorium, or in the management of funds.

28 d. Satisfactory evidence of good moral character.

29 e. Further information as the commissioner may prescribe by  
30 rule.

31 2. The commissioner shall not issue a license to any person  
32 if any of the following applies:

33 a. The person had a license to operate a companion animal  
34 cemetery or companion animal crematorium suspended or revoked  
35 by the commissioner.

1     *b.* The person as been convicted within the last five years  
2 of a felony under the laws of this state involving fraud,  
3 bribery, perjury, or theft, or has been convicted under the  
4 laws of any other state or of the United States of a criminal  
5 offense which, if committed and prosecuted in this state, would  
6 constitute a similar felony under such laws of this state.

7     3. Any person who has had an application for a license  
8 rejected by the commissioner may appeal pursuant to section  
9 523J.8.

10     Sec. 8. NEW SECTION. 523J.5 Licenses — display — renewal  
11 — duplicates.

12     1. A license issued pursuant to this chapter shall be for  
13 a period of two years.

14     2. A license shall not be assignable or transferable except  
15 as follows:

16     *a.* A license to conduct the business of operating a  
17 companion animal cemetery or companion animal crematorium  
18 issued to an individual may be assigned or transferred for the  
19 remainder of the license period to a partnership or corporation  
20 if the individual is a member of the partnership or an officer  
21 of the corporation at the time of the assignment or transfer.

22     *b.* A license issued to a partnership may be assigned or  
23 transferred for the remainder of the license period to any one  
24 member of the partnership, provided the consent of all of the  
25 other members of the partnership is obtained.

26     *c.* A license issued to a corporation may be assigned or  
27 transferred for the remainder of the license period to any  
28 officer of the corporation, provided the consent of all of the  
29 other officers of the corporation is obtained.

30     3. Any application for assignment or transfer of a license  
31 must be submitted to the commissioner, accompanied by the  
32 documents demonstrating compliance with the requirements  
33 of subsection 2. An assignment or transfer shall not be  
34 effective until the license has been returned to the assignee  
35 or transferee with the commissioner's approval. Fees are not

1 applicable to assignments or transfers of licenses.

2 4. A bona fide purchaser of a business licensed under  
3 this chapter may continue to use the license of the seller on  
4 a temporary basis from the date of the sale for conducting  
5 business as follows:

6 a. The signatures of both the seller and the purchaser and  
7 the date of sale are shown on the face of the license.

8 b. Within five days from the date of the sale, the purchaser  
9 shall submit an application for a license to conduct the  
10 business of operating a companion animal cemetery or companion  
11 animal crematorium.

12 c. The seller's license shall be valid until the purchaser's  
13 license application is either granted or denied by the  
14 commissioner.

15 5. A license to conduct the business of operating a  
16 companion animal cemetery or companion animal crematorium  
17 issued to an individual or to a partnership may be used, on a  
18 temporary basis, after the death of the licensed individual or  
19 copartner by the next of kin or duly appointed administrator or  
20 executor in the name of the estate from the date of death of the  
21 licensed individual or copartner as follows:

22 a. The face of the license displays, after the name of the  
23 decedent, the word "deceased", the date of death, and the name  
24 of the next of kin, administrator, or executor under whose  
25 authority the license is being used.

26 b. Within thirty days of the date of death of the licensee,  
27 the next of kin, administrator, or executor shall submit an  
28 application for a license to conduct the business of operating  
29 a companion animal cemetery or companion animal crematorium.

30 c. Such license shall be valid until the license application  
31 of the next of kin, administrator, or executor is either  
32 granted or denied by the commissioner.

33 6. A license to conduct the business of operating a  
34 companion animal cemetery or companion animal crematorium shall  
35 be conspicuously posted upon the premises where the licensee

1 is engaged in the business of operating a companion animal  
2 cemetery or companion animal crematorium.

3 7. Any license that has not been suspended or revoked may,  
4 upon the payment of the renewal fee prescribed by this chapter,  
5 be renewed for additional periods of two years, upon the filing  
6 of an application for renewal on a form to be prescribed by the  
7 commissioner and payment of a renewal fee.

8 a. Any licensee failing to file a renewal application and  
9 submit the fee within forty-five days of the expiration of the  
10 person's license under this chapter shall pay an additional fee  
11 of sixty dollars.

12 b. Any licensee failing to file a renewal application and  
13 submit the fee within ninety days of the expiration of the  
14 person's license under this chapter shall be ineligible for a  
15 license until the person shall have again met the requirements  
16 of section 523J.4.

17 8. If a license issued under this chapter is lost or  
18 destroyed, a licensee may, upon submission of an application  
19 and payment of a fee, obtain a duplicate license upon  
20 furnishing proof satisfactory to the commissioner that the  
21 original license has been lost or destroyed. Each duplicate  
22 license shall have the word "duplicate" stamped across the  
23 front, and shall bear the same number as the license it  
24 replaces.

25 9. A licensee shall give notice in writing to the  
26 commissioner within thirty days of any change in address of the  
27 business or residence of a licensee. The commissioner shall  
28 affix an endorsement on the front of the original license as to  
29 the change. A change of address by a licensee without notice  
30 to and endorsement by the commissioner shall operate to cancel  
31 the license.

32 **Sec. 9. NEW SECTION. 523J.6 Fees — appropriation.**

33 1. The fee for a license to engage in the business of  
34 operating a companion animal cemetery or companion animal  
35 crematorium shall be one hundred fifty dollars. For each

1 renewal thereof, the fee shall be one hundred fifty dollars.

2 2. The fee for issuing a duplicate license shall be  
3 twenty-five dollars.

4 3. The fee for changing a name or address shall be ten  
5 dollars.

6 4. The fees set forth in this section shall be for licenses  
7 issued for the license period of two years. A reduction or  
8 refund in fees shall not be provided for late renewals or  
9 surrender or revocation or suspension of a license.

10 5. A city or county seeking a license to operate a companion  
11 animal cemetery or companion animal crematorium shall not be  
12 charged any fees.

13 6. Notwithstanding section 8.33, moneys derived from the  
14 administration of this chapter shall not revert to the general  
15 fund of the state, and are appropriated to the commissioner for  
16 administration, licensing, and inspections conducted pursuant  
17 to this chapter.

18 Sec. 10. NEW SECTION. 523J.7 Denial of license application  
19 — suspension and revocation of licenses.

20 1. An application for a license under this chapter may be  
21 denied or a license to engage in the business of operating a  
22 companion animal cemetery or companion animal crematorium may  
23 be suspended or revoked by the commissioner for any of the  
24 following:

25 a. Fraud or bribery in securing a license.

26 b. The making of any false statement as to a material matter  
27 in any application or other statement or certificate required  
28 by or pursuant to this chapter.

29 c. Incompetence in the operation of a companion animal  
30 cemetery or companion animal crematorium.

31 d. Failure to display a license as provided in this chapter.

32 e. Violation of any provision of this chapter, or of any  
33 rule adopted pursuant to this chapter.

34 f. Conviction of a crime involving fraud, theft, perjury,  
35 or bribery, or other cause which would permit disqualification

1 upon an original application.

2 *g.* Failure to retain all companion animal disposal  
3 disclosure forms for a period of two years following receipt.

4 *h.* Failure to comply with the duties of an owner or operator  
5 of a companion animal crematorium as set out in this chapter.

6 *i.* Conviction of a violation of chapter 717 or 717B.

7 2. If a license to engage in the business of operating a  
8 companion animal cemetery or companion animal crematorium is  
9 revoked, the license shall not be reinstated or reissued until  
10 after the expiration of a period of five years from the date of  
11 the revocation, and only upon approval of the commissioner of a  
12 license application pursuant to section 523J.4.

13 Sec. 11. NEW SECTION. **523J.8 Administrative actions.**

14 A license suspension or revocation, or the imposition of a  
15 penalty or reprimand, shall not be imposed until after final  
16 agency action and judicial review pursuant to chapter 17A.

17 Sec. 12. NEW SECTION. **523J.9 Violations — penalties.**

18 1. If an audit or investigation provides reasonable  
19 evidence that a person has violated this chapter, or any rule  
20 adopted pursuant to this chapter, the commissioner may issue an  
21 order directed at the person to cease and desist from engaging  
22 in such act or practice. In addition to any other penalty,  
23 the commissioner may direct a licensee to pay the reasonable  
24 costs of investigation of any complaint filed pursuant to this  
25 chapter, unless the commissioner determines the complaint to be  
26 totally without merit.

27 2. *a.* The commissioner shall notify the attorney general  
28 if the commissioner finds that a business operated subject  
29 to regulation under this chapter meets any grounds for the  
30 establishment of a receivership which includes any of the  
31 following:

32 (1) Insolvency.

33 (2) The use of trust funds for personal or business purposes  
34 in a manner inconsistent with the requirements of this chapter,  
35 if the amount of funds currently held in the trust is less than

1 the amount required by this chapter.

2     *b.* The commissioner or the attorney general may apply to the  
3 district court in any county of the state for a receivership.  
4 Upon proof of any of the grounds for a receivership described  
5 in this section, the court may grant a receivership.

6     3. The commissioner or the attorney general may apply to  
7 the district court for an injunction to restrain any licensee  
8 subject to this chapter and any agents, employees, trustees,  
9 or associates of the licensee from engaging in conduct or  
10 practices deemed a violation of this chapter or rules adopted  
11 pursuant to this chapter. Upon proof of a violation of this  
12 chapter described in the petition for injunction, the court may  
13 grant the injunction. The commissioner or the attorney general  
14 shall not be required to post a bond. Failure to obey a court  
15 order under this subsection constitutes contempt of court.

16     4. A licensee who violates a provision of this chapter after  
17 notice to cease and desist, or who continues to engage in the  
18 business of operating a companion animal cemetery or companion  
19 animal crematorium after having had the person's license  
20 suspended or revoked, or who, without a license to engage  
21 in the business of operating a companion animal cemetery or  
22 companion animal crematorium, directly or indirectly employs,  
23 permits, or authorizes an unlicensed person to engage in the  
24 business of operating a companion animal cemetery or companion  
25 animal crematorium, shall upon conviction for the first offense  
26 be guilty of a serious misdemeanor. If the conviction is for a  
27 subsequent offense committed after the first conviction under  
28 this chapter, such person shall be guilty of an aggravated  
29 misdemeanor. Each violation of this chapter shall be deemed a  
30 separate offense.

31     5. The commissioner or the attorney general may include the  
32 costs of investigation in any request for restitution made to a  
33 court hearing a criminal action brought pursuant to a violation  
34 of this chapter.

35     Sec. 13. NEW SECTION.   523J.10   Dedication of real property

1 for companion animal cemetery purposes.

2 1. The owner of any real property used or to be used for  
3 a companion animal cemetery shall file, or cause to be filed,  
4 in the office of the county recorder of the county in which  
5 the real property is located, a dedication restricting the  
6 real property to be used only for purposes as are usual and  
7 customary for the operation of a companion animal cemetery.  
8 The owner of the real property shall additionally file a  
9 certified copy of the dedication, together with notation of the  
10 date, time, book, and page of filing by the county recorder  
11 with the commissioner. The filing with the commissioner shall  
12 additionally include a copy of a survey map and appropriate  
13 zoning approvals as may be reasonably required by the  
14 commissioner.

15 2. The owner or operator of each companion animal cemetery  
16 shall keep adequate records of all purchasers of space for  
17 companion animal remains within the grounds of such companion  
18 animal cemetery.

19 Sec. 14. NEW SECTION. 523J.11 Removal of dedication of real  
20 property.

21 1. A dedication restricting real property for the operation  
22 of a companion animal cemetery may only be amended or removed  
23 by order of the district court of the county where the  
24 companion animal cemetery is located. A petition for amendment  
25 or removal of dedication shall include written consent by all  
26 persons who purchased or otherwise are entitled to rights of  
27 disposal or rights to continuing care of a companion animal  
28 grave in that portion of the companion animal cemetery for  
29 which the dedication is sought to be amended or removed.  
30 If the portion of the companion animal cemetery for which  
31 the dedication is sought to be amended or removed includes  
32 companion animal remains, the companion animal remains must be  
33 removed, upon the written consent of all persons who purchased  
34 or are otherwise entitled to rights of disposal or rights  
35 to continuing care of a companion animal grave, their heirs

1 or assigns, with the removal to be entirely at the cost of  
2 the owner of the companion animal cemetery. The court, upon  
3 proof of diligent efforts and as determined by the court,  
4 may dispense with the written consent of any person who  
5 purchased or is otherwise entitled to rights of disposal whose  
6 whereabouts, identity, or heirs or assigns are unknown. If the  
7 court has dispensed with any person's written consent under  
8 this section, the court may make a determination as to the  
9 consideration appropriate for such consent and order that the  
10 consideration be deposited with the court. The consideration  
11 shall be paid to such person upon appropriate proof of claim.  
12 The court shall proceed according to the provisions of chapter  
13 556 in regard to unclaimed consideration.

14 2. The petition for amendment or removal of dedication  
15 may additionally include an environmental audit if required  
16 by the court, which shall identify any environmental problems  
17 caused by the companion animal cemetery activity, including  
18 an identification of companion animal disposal sites. If the  
19 environmental audit identifies any environmental problem, a  
20 plan for the correction or remediation of such problems shall  
21 be included, including financial, human, and other resource  
22 estimates, and projected time schedules for the completion of  
23 the corrective and remedial actions, with the court to make any  
24 order on the petition conditional upon the completion of any  
25 corrective and remedial action or upon the deposit with the  
26 court of an amount of money determined necessary to complete  
27 the remediation or correction.

28 Sec. 15. NEW SECTION. 523J.12 **Area requirements.**

29 A companion animal cemetery that commences operations on or  
30 after the effective date of this Act and that provides for the  
31 permanent interment of companion animals shall consist of not  
32 less than five contiguous acres of real property in total area,  
33 inclusive of any structures, facilities, or buildings situated  
34 on the real property and used for the business purposes of the  
35 companion animal cemetery. The commissioner may grant a waiver

1 of the minimum size limit based on factors including the number  
2 of aboveground entombments, the number of remains buried, and  
3 the nature of the surrounding community. A city or county may  
4 adopt a local ordinance that provides for an area requirement  
5 greater than five contiguous acres of real property.

6 Sec. 16. NEW SECTION. 523J.13 **Maintenance fees.**

7 1. A companion animal cemetery owner may charge a companion  
8 animal owner a permanent maintenance endowment fee for the care  
9 of the companion animal cemetery. Any permanent maintenance  
10 endowment fee paid shall be placed by the companion animal  
11 cemetery owner into a permanent maintenance endowment care or  
12 similar trust fund.

13 2. In lieu of a permanent maintenance endowment fee, the  
14 companion animal cemetery owner and a companion animal owner  
15 may enter into a contract for care of the companion animal  
16 cemetery on an annual basis. The companion animal owner shall  
17 then be charged an annual maintenance fee. Only one contract  
18 for annual maintenance shall be entered into per gravesite.  
19 The contract shall state specifically the amount of the annual  
20 maintenance fee. The contract shall also state that failure  
21 to pay the annual fee can result in the disinterment of the  
22 companion animal.

23 *a.* The annual maintenance fee, billed each calendar year,  
24 shall be deposited by the companion animal cemetery owner in  
25 the general account of the companion animal cemetery to be used  
26 for companion animal cemetery operation and maintenance during  
27 the succeeding years.

28 *b.* If the annual maintenance fee is not paid within ninety  
29 days of the date due, the companion animal cemetery owner shall  
30 notify the companion animal owner in writing that such fee is  
31 due and payable. If such annual maintenance fee is not paid  
32 within ninety days of the notice, the disposal rights or rights  
33 to continuing care of a companion animal grave of the companion  
34 animal owner shall terminate.

35 *c.* If the annual maintenance fee is not paid within one

1 hundred eighty days of the date it is due, the disposal rights  
2 of a companion animal owner shall terminate and the companion  
3 animal cemetery owner may at any time thereafter remove the  
4 companion animal remains and if removed dispose of remains by  
5 mass cremation or mass burial.

6 *d.* A companion animal owner may prepay annual maintenance  
7 fees for any number of years in advance. Prepaid annual  
8 maintenance fees shall be deposited in the manner of permanent  
9 maintenance endowment fees, and an annual statement shall be  
10 sent to the companion animal owner reflecting the withdrawal of  
11 the annual maintenance fee and the balance of prepaid annual  
12 maintenance fees remaining.

13 *e.* The companion animal cemetery owner shall maintain  
14 individual records of account for each permanent maintenance  
15 endowment fee and each annual maintenance fee contract pursuant  
16 to section 523J.13, and shall make the records accessible to  
17 the commissioner pursuant to section 523J.3.

18 Sec. 17. NEW SECTION. 523J.14 Endowment care — trust  
19 funds.

20 1. A companion animal cemetery that commenced operations  
21 prior to the effective date of this Act shall establish an  
22 endowment care or similar trust fund, the balance of which  
23 shall not be less than twelve thousand dollars, by January 1,  
24 2015. The commissioner may grant a waiver to this requirement  
25 if an endowment care or similar trust fund is established  
26 and twelve thousand dollars is placed in such fund within  
27 a reasonable amount of time not to exceed ten years from  
28 the effective date of this Act, and if the provisions of  
29 this section would otherwise present a significant financial  
30 hardship to the owner or operator.

31 2. A companion animal cemetery that commences operations  
32 on or after the effective date of this Act shall, prior to the  
33 acceptance of any moneys as permanent maintenance endowment  
34 fees or annual maintenance fees, establish an endowment care or  
35 similar trust fund for the permanent operation and maintenance

1 of the companion animal cemetery, in an amount of not less than  
2 twelve thousand dollars.

3 3. The fiduciary holding such endowment care or similar  
4 trust fund shall have such power to invest the moneys in the  
5 fund as set forth in chapter 633. The interest earnings of  
6 such an endowment care fund shall be used for the maintenance  
7 of both occupied and unoccupied lots or spaces. Any remaining  
8 interest may be used for costs of access roads and paths,  
9 fencing, and general maintenance of the companion animal  
10 cemetery.

11 4. Any distribution of the original twelve thousand dollar  
12 principal of such an endowment care or similar trust fund shall  
13 only be upon order of the district court of the county where  
14 the companion animal cemetery is located, for good cause, and  
15 exclusively for the operation and benefit of such companion  
16 animal cemetery. Unless such distribution of principal shall  
17 be as part of a removal of dedication for the companion animal  
18 cemetery, the court order shall additionally make adequate  
19 provision for the permanent maintenance of the companion animal  
20 cemetery.

21 5. A companion animal cemetery owned and operated by a  
22 not-for-profit corporation that has in excess of one million  
23 dollars in its endowment care or similar trust fund may use any  
24 surplus income in the trust fund above and beyond its costs  
25 for companion animal cemetery operation and maintenance in any  
26 manner allowed by the not-for-profit corporation's articles or  
27 bylaws, provided that the use of such surplus does not endanger  
28 the integrity of the trust fund.

29 6. A companion animal cemetery owned and operated by a  
30 not-for-profit corporation that is a humane society may be  
31 granted a waiver of the provisions of this section by the  
32 commissioner if the commissioner determines that the interests  
33 of the companion animal owners will be adequately protected and  
34 the provisions of this section present a significant financial  
35 hardship to the humane society.

1 7. A trust fund is not invalid by reason of any  
2 indefiniteness or uncertainty of the persons designated as  
3 beneficiaries, and such trust funds shall not be invalid as  
4 violating any existing rule against perpetuities.

5 Sec. 18. NEW SECTION. 523J.15 **Companion animal disposal**  
6 **disclosure forms.**

7 1. A person who gives a veterinarian, a companion animal  
8 cemetery owner, or companion animal crematorium owner a  
9 companion animal for disposal shall be provided by the  
10 veterinarian, companion animal cemetery owner, or companion  
11 animal crematorium owner with a companion animal disposal  
12 disclosure form, as approved by the commissioner, which shall  
13 set forth the alternative methods of companion animal disposal,  
14 the cost of each method of companion animal disposal, if  
15 available, and the nature of or place in which each method of  
16 disposal will be carried out. The veterinarian, companion  
17 animal cemetery owner, or companion animal crematorium owner,  
18 as the case may be, shall give to the person who completes the  
19 form a copy of the form and retain a copy of the completed  
20 form. If the person completing the form chooses to have the  
21 companion animal disposed of by a companion animal cemetery  
22 or companion animal crematorium and makes the arrangements  
23 for disposal through a veterinarian, the veterinarian shall  
24 provide the person with the name, location, and telephone  
25 number of the companion animal cemetery or companion animal  
26 crematorium so that the person may obtain information about  
27 the companion animal cemetery or companion animal crematorium.  
28 The veterinarian shall also ensure that a copy of the form  
29 accompanies the deceased companion animal when the deceased  
30 companion animal is removed from the veterinarian's office.

31 2. A veterinarian or companion animal cemetery operator  
32 may complete a companion animal disposal disclosure form with  
33 the oral consent of the companion animal owner. Such oral  
34 consent shall be witnessed and a record of such consent and  
35 the completed form shall be retained in the veterinarian's or

1 companion animal cemetery's or companion animal crematorium's  
2 records. A copy of such completed form shall be sent to the  
3 companion animal owner.

4 3. If a companion animal owner is unwilling or unable to  
5 complete a companion animal disposal form, a veterinarian  
6 may complete the disclosure form if two attempts are made to  
7 contact the companion animal owner. At least one such attempt  
8 shall be made in writing and sent by first-class mail. If the  
9 veterinarian completes the form without the consent of the  
10 companion animal owner, a copy of the completed form shall be  
11 retained by the veterinarian along with the records of the  
12 attempts to contact the companion animal owner.

13 4. A companion animal disposal disclosure form shall not be  
14 required if any of the following apply:

15 a. The companion animal owner cannot be identified.

16 b. The companion animal remains originate with a city or  
17 county.

18 c. The companion animal is abandoned pursuant to section  
19 162.19.

20 d. The companion animal is to be disposed of without charge  
21 to the companion animal owner.

22 Sec. 19. NEW SECTION. 523J.16 Disposal — compliance.

23 1. A companion animal cemetery owner or companion animal  
24 crematorium owner shall dispose of a companion animal in  
25 compliance with a companion animal disposal disclosure form  
26 completed by a companion animal owner or veterinarian.

27 2. The companion animal cemetery owner or companion  
28 animal crematorium owner shall, within ten days of disposal  
29 by individual cremation or individual burial, send or give  
30 a written confirmation of such disposal to the companion  
31 animal owner or veterinarian, depending on instructions in the  
32 companion animal disposal disclosure form, and shall attest to  
33 the method, date, and place of disposal. If a companion animal  
34 is disposed of either through mass cremation or mass burial, no  
35 written confirmation shall be required.

1 3. Copies of all forms shall be retained by the companion  
2 animal cemetery owner or companion animal crematorium owner and  
3 by the veterinarian for a period of two years after disposal.

4 4. a. The companion animal remains shall be buried at least  
5 one foot below the surface of the ground.

6 b. Notwithstanding paragraph "a", a companion animal  
7 weighing more than eighty pounds but less than two hundred  
8 pounds shall be buried at least four feet below the surface of  
9 the ground and a companion animal weighing two hundred pounds  
10 or more shall be buried at least six feet below the surface of  
11 the ground.

12 Sec. 20. NEW SECTION. 523J.17 Exclusions.

13 A companion animal cemetery shall be exempt from the trust  
14 fund provisions of section 523J.14, the dedication provisions  
15 of sections 523J.10 and 523J.11, and the area requirement of  
16 section 523J.12, if any of the following applies:

- 17 1. It is owned by a licensed veterinarian.
- 18 2. It is located on land used in agricultural production.
- 19 3. It does not allow individual burials.
- 20 4. It does not allow individual grave markers.
- 21 5. It does not charge a maintenance fee for the care of  
22 companion animal graves.
- 23 6. It does not make a representation that companion animal  
24 graves will be cared for or that the land is dedicated.
- 25 7. It buries less than five companion animals a year, makes  
26 no representation that the companion animal graves will be  
27 cared for or that the land is dedicated, and does not charge a  
28 maintenance fee for the care of the companion animal graves.

29 Sec. 21. NEW SECTION. 523J.18 Duties.

30 1. An owner or operator of a companion animal cemetery shall  
31 do all of the following:

- 32 a. Keep permanently maps and records containing the specific  
33 site of each companion animal grave, the grave owner's last  
34 known address, the date of burial, the size of such grave, the  
35 contract for sale of such grave, and companion animal disposal

1 disclosure forms.

2 *b.* Keep complete records of the names of trustees of any  
3 trust accounts and complete records of all trust fund moneys.

4 *c.* Clearly inform customers of the option of paying  
5 maintenance fees for care of companion animal graves, including  
6 costs and benefits for permanent care for companion animal  
7 graves and annual care for companion animal graves.

8 *d.* Cooperate with all reasonable requests of inspectors  
9 appointed by the commissioner to inspect companion animal  
10 cemeteries and companion animal crematoriums.

11 *e.* Provide notice to customers about hours that the  
12 companion animal cemetery will be open to visitors to view  
13 companion animal graves.

14 2. The provisions of subsection 1 shall apply only to  
15 individual burials.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with  
18 the explanation's substance by the members of the general assembly.

19 GENERAL. This bill provides for the disposal of the remains  
20 of companion animals by burial or cremation and regulates  
21 persons engaged in the business of operating cemeteries  
22 or crematoriums which perform these services. The bill's  
23 provisions are administered by the commissioner of insurance  
24 (commissioner).

25 LEGISLATIVE FINDINGS. The bill makes legislative findings  
26 regarding the importance of the relationship of companion  
27 animals to humans, and the need for protection of companion  
28 animals from unconscionable acts on the part of persons in  
29 the business of providing for the disposal of the remains of  
30 deceased companion animals. The bill creates new Code chapter  
31 523J.

32 DEFINITIONS. The bill provides definitions to be used in the  
33 new Code chapter. It defines terms related to the business  
34 of disposal of companion animal remains, such as "entombment",  
35 which means the placement of a companion animal in a grave or

1 tomb; "inurnment", meaning the placement of companion animal  
2 cremains in a grave, urn, or tomb; and general terms, such as  
3 "companion animal", meaning any domestic animal that had been  
4 adapted or tamed to live under the immediate and permanent  
5 care of humans, including but not limited to dogs, cats,  
6 horses, rodents, fish, birds, snakes, turtles, lizards, frogs,  
7 and rabbits; and "companion animal cemetery", meaning any  
8 land, place, structure, facility, or building provided by any  
9 person for a fee, whether or not for profit, to veterinarians  
10 or members of the general public for use for the permanent  
11 interment or inurnment of companion animal remains (new Code  
12 section 523J.1).

13 LICENSE. The bill provides that a license is required for  
14 a person to engage for a fee in the business of operating a  
15 companion animal cemetery or companion animal crematorium (new  
16 Code section 523J.2).

17 COMMISSIONER'S AUTHORITY. The bill grants to the  
18 commissioner authority to adopt rules, create forms,  
19 investigate applicants for licensure, keep records of licenses  
20 issued, suspended, or revoked, provide standards and an  
21 enforcement process for operation of a facility, conduct  
22 inspections of premises and financial audits of companion  
23 animal cemeteries and companion animal crematoriums, subpoena  
24 records, provide procedures to protect consumers when a license  
25 to operate a facility is suspended, revoked, or not renewed,  
26 and establish standards for burial and cremation in cooperation  
27 with the department of natural resources (new Code section  
28 523J.3).

29 OPERATION BY LICENSEES. The bill provides requirements  
30 for application for licensure to conduct the business of  
31 operating a companion animal cemetery or companion animal  
32 crematorium (new Code section 523J.4). It provides for the  
33 term, the transferability, and the renewal of licenses, and for  
34 a duplicate license in case of loss or destruction. A licensee  
35 is also required to notify the commissioner within 30 days of

1 any change in address of the place of business or the residence  
2 of a licensee (new Code section 523J.5).

3 LICENSE FEE. The bill requires a fee of \$150 for a new  
4 license or the renewal of a license, and provides for a fee  
5 of \$25 for a duplicate license, and \$10 for change of name  
6 or address. A city or county seeking a license to operate  
7 a companion animal cemetery or companion animal crematorium  
8 cannot be charged a fee. The moneys collected from the fees  
9 are appropriated to the commissioner to pay for expenses of  
10 administration, licensing, and inspections (new Code section  
11 523J.6).

12 ADMINISTRATIVE ACTIONS. The bill provides circumstances  
13 that allow the commissioner to deny a license application,  
14 and circumstances under which a license can be suspended  
15 or revoked. The prohibited circumstances include fraud or  
16 bribery in securing a license, making any false statement of  
17 material fact in the application or any certificate required  
18 by the chapter, incompetence, failure to display the license,  
19 violation of the provisions of the chapter, conviction of a  
20 crime involving fraud, theft, perjury, or bribery, failure to  
21 retain companion animal disposal disclosure forms, failure to  
22 comply with the duties of an owner or operator of a companion  
23 animal cemetery or companion animal crematorium, or conviction  
24 of a violation of Code chapter 717 or Code chapter 717B  
25 regarding an injury to animals. A licensee whose license has  
26 been revoked may not be reinstated for five years from the date  
27 of revocation, and must reapply for a license (new Code section  
28 523J.7).

29 ADMINISTRATIVE ACTION — PENALTIES. The bill requires that  
30 a license suspension or revocation, or the imposition of a  
31 penalty or reprimand, cannot be imposed until after a contested  
32 case proceeding and judicial review pursuant to Code chapter  
33 17A (new Code section 523J.8).

34 The bill provides penalties for violations by a licensee,  
35 including an order to cease and desist. The commissioner must

1 notify the attorney general if a receivership is required  
2 because a licensee is insolvent or has utilized trust funds  
3 for personal or business purposes inconsistent with the  
4 requirements of the bill. The commissioner or the attorney  
5 general may seek an injunction to restrain a licensee from  
6 engaging in conduct or practices deemed a violation of the  
7 bill. A licensee who persists in the violation after notice to  
8 cease and desist, or after a license is suspended or revoked,  
9 is upon conviction for a first offense guilty of a serious  
10 misdemeanor. If the conviction is for a subsequent offense,  
11 the person is guilty of an aggravated misdemeanor (new Code  
12 section 523J.9). A serious misdemeanor is punishable by  
13 confinement for no more than one year and a fine of at least  
14 \$250 but not more than \$1,500. An aggravated misdemeanor is  
15 punishable by confinement for no more than two years and a fine  
16 of at least \$500 but not more than \$5,000.

17 DEDICATION. The bill provides for the dedication of real  
18 property for a companion animal cemetery, by the filing by  
19 the owner of any real property of a document restricting the  
20 real property to use only as a companion animal cemetery. The  
21 owner of any such companion animal cemetery is required to keep  
22 adequate records of purchasers of space for companion animal  
23 remains within the companion animal cemetery (new Code section  
24 523J.10).

25 REMOVAL OF DEDICATION. The bill provides for the removal of  
26 the dedication of real property as a companion animal cemetery  
27 by order of the district court. The petition for a removal  
28 of dedication must contain written consent of all persons who  
29 purchased or are otherwise entitled to rights of disposal or  
30 rights of continuing care of a companion animal grave. If  
31 consent cannot be obtained, upon proof of diligent effort, the  
32 court may dispense with the consent and require appropriate  
33 consideration be deposited with the court, to be paid to the  
34 person whose consent was dispensed with, the personal heirs,  
35 or assigns, upon the appropriate proof of claim. The petition

1 may also require an environmental audit, if required by the  
2 court, including a plan for the correction or remediation of  
3 any environmental problem found, financial, human, and other  
4 resource estimates, and projected time schedules for completion  
5 of the corrective and remedial actions. The court must make  
6 any order on the petition conditional upon the completion of  
7 any corrective and remedial action or upon the deposit with the  
8 court of an amount of money determined necessary for completion  
9 (new Code section 523J.11).

10       MINIMUM ACRES FOR COMPANION ANIMAL CEMETERY. The bill  
11 requires at least five contiguous acres of real property,  
12 inclusive of structures, for a companion animal cemetery,  
13 and provides that the commissioner may grant a waiver of the  
14 minimum size limit. A city or county may adopt an ordinance  
15 requiring more than five acres of contiguous real property for  
16 the operation of a companion animal cemetery (new Code Section  
17 523J.12).

18       MAINTENANCE. The bill provides that maintenance fees for  
19 the companion animal cemetery may be charged as permanent  
20 maintenance endowment fees or as annual maintenance fees. A  
21 companion animal cemetery owner must establish a trust account  
22 for the permanent maintenance endowment fees. The annual fees  
23 must be billed each calendar year, and upon receipt may be  
24 placed in the general account of the business and used for  
25 operation and maintenance costs, including salaries. If annual  
26 maintenance fees are not paid within 180 days, the disposal  
27 rights of a companion animal owner terminate, and the companion  
28 animal cemetery owner may remove and dispose of the remains by  
29 mass cremation or mass burial. A companion animal owner may  
30 prepay annual maintenance fees, and the prepaid fees are to  
31 be deposited in the trust fund and withdrawn upon an annual  
32 basis, and a statement sent to the companion animal owner  
33 reflecting the withdrawal of the annual amount and the balance  
34 of prepaid annual maintenance fees remaining. The companion  
35 animal owner must maintain individual records of account for

1 each maintenance fee contract (new Code section 523J.13).  
2       ENDOWMENT FUND. The bill provides requirements for an  
3 endowment fund for each companion animal cemetery, in the  
4 amount of \$12,000. A companion animal cemetery currently in  
5 existence must establish trust accounts by January 1, 2015,  
6 or be granted a waiver by the commissioner, which may extend  
7 up to 10 years from the effective date of this bill. New  
8 licensees must establish the trust fund prior to accepting any  
9 permanent maintenance endowment fees or annual maintenance  
10 fees. The trust fund moneys may be invested as set forth in  
11 Code chapter 633, with the interest earnings to be used for the  
12 maintenance of both occupied and unoccupied lots or spaces, and  
13 any remaining interest to be used for costs of access roads,  
14 paths, fencing, and general maintenance. Any distribution  
15 of the original \$12,000 principal must only occur by order  
16 of district court, for good cause, and exclusively for the  
17 operation and benefit of the companion animal cemetery. A  
18 companion animal cemetery owned by a not-for-profit corporation  
19 may distribute surplus funds over \$1 million in any manner  
20 allowed in the not-for-profit corporation's articles or bylaws,  
21 if the use of the surplus does not endanger the integrity of  
22 the trust fund. The commissioner may waive these provisions  
23 for a not-for-profit corporation that is a humane society if  
24 the commissioner determines that the interests of the companion  
25 animal owners will be adequately protected and the requirements  
26 would present a significant hardship to the not-for-profit  
27 corporation (new Code section 523J.14).

28       COMPANION ANIMAL DISPOSAL DISCLOSURE FORM. The bill  
29 requires that a companion animal disposal disclosure form be  
30 completed for every deceased companion animal, which sets out  
31 the alternative methods of companion animal disposal, the costs  
32 of each, and the nature of or place each method will be carried  
33 out. The form may be completed by a veterinarian or the owner  
34 of the deceased companion animal. Provisions are made by which  
35 a veterinarian may complete a form if a companion animal's

1 owner is unknown, or if the companion animal owner refuses to  
2 complete a form (new Code section 523J.15).

3 CONFIRMATION. The bill provides that disposal of a  
4 companion animal must be in compliance with the companion  
5 animal disposal disclosure form, and that, within 10 days  
6 of disposal, a licensee must give written confirmation of  
7 the disposal to the companion animal owner or veterinarian,  
8 attesting to the method, date, and place of disposal.  
9 Copies of the form must be retained by the licensee and the  
10 veterinarian for two years after the disposal. Companion  
11 animal remains must be buried at least 12 inches below the  
12 surface of the ground. However, special requirements apply to  
13 large companion animals.

14 EXCLUSIONS. The bill provides exclusions from the trust  
15 fund requirements for companion animal cemeteries that are  
16 owned by a licensed veterinarian, located on ground used in  
17 agricultural production, do not allow individual burials, do  
18 not allow individual grave markers, do not charge a maintenance  
19 fee for the care of companion animal graves, do not make any  
20 representations that companion animal graves will be cared  
21 for or that the land is dedicated, and bury less than five  
22 companion animals a year and make no representations that  
23 companion animal graves will be cared for or that the land  
24 is dedicated, and do not charge a maintenance fee (new Code  
25 section 523J.17).

26 RECORDS. The bill provides that owners and operators of  
27 companion animal cemeteries must keep maps and records of  
28 specific sites of each companion animal grave, the grave  
29 owner's last known address, the date of the burial, the size of  
30 the grave, the contract for sale of the grave and the companion  
31 animal disposal disclosure forms, and complete records of  
32 trust accounts. A companion animal cemetery owner must also  
33 clearly inform customers of the option of paying maintenance  
34 fees for care of companion animal graves, including costs and  
35 benefits for permanent endowment and annual care maintenance,

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1 and provide customers with the hours of business the cemetery  
2 will be open to visitors to view companion animal graves. The  
3 bill also requires cooperation by the companion animal cemetery  
4 or companion animal crematorium owners with all reasonable  
5 requests of inspectors (new Code section 523J.18).